

POTENTIAL PRINCIPLES FOR HARMONIZING VIETNAM'S COMPETITION LAW WITH EUROPEAN UNION REGULATIONS

POTENCIÁLNE ZÁSADY HARMONIZÁCIE VIETNAMSKÉHO PRÁVA HOSPODÁRSKEJ SÚŤAŽE S PREDPISMI EURÓPSKEJ ÚNIE

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<https://doi.org/10.33542/SIC2026-2-03>

ABSTRACT

This study examines potential guiding principles for aligning Vietnam's Competition Law with the broader regulatory framework of the European Union (EU). Using a qualitative structural comparative method, the article analyses similarities and differences in substantive rules, legal concepts, enforcement institutions, and procedural safeguards. While both systems seek to protect fair competition and consumer welfare, they are shaped by different legal traditions and policy rationalities. EU competition law operates within an ordoliberal and supranational framework that emphasizes market integration, economic efficiency, consumer welfare, transparency, and judicial review. Vietnam's competition regime, by contrast, functions within a socialist-oriented market economy where competition policy is closely connected to state management, development priorities, and the continuing role of state-owned enterprises. The study, therefore, argues that harmonization should not be understood as mechanical legal transplantation, but as a context-sensitive process of functional adaptation. It proposes guiding principles including functional equivalence, functional independence of the National Competition Commission, clearer procedural safeguards, publication of reasoned decisions, enhanced judicial review, and stronger mechanisms for cross-border cooperation. Particular attention is given to merger control in the digital economy, including Vietnam's transaction-value threshold as a potentially useful tool for addressing high-value, low-revenue acquisitions, provided that local nexus and enforcement capacity are clarified. The findings suggest that Vietnam can learn from EU experience while preserving institutional feasibility within its own legal and political context. The article contributes practical recommendations for policymakers, regulators, and legal practitioners involved in Vietnam's competition law reform and international economic integration.

ABSTRAKT

Táto štúdia sa zaoberá potenciálnymi usmerňujúcimi zásadami harmonizácie vietnamského práva hospodárskej súťaže so širším regulačným rámcom Európskej únie (EÚ). Pomocou kvalitatívnej štruktúrálnej komparatívnej metódy článok analyzuje podobnosti a rozdiely v hmotnoprávných pravidlách, právnych koncepciách, presadzovacích inštitúciách a procesných

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zárukách. Hoci sa oba systémy snažia chrániť spravodlivú hospodársku súťaž a blaho spotrebiteľa, sú formované odlišnými právnymi tradíciami a politickými racionalitami. Súťažné právo EÚ funguje v rámci ordoliberalného a nadnárodného rámca, ktorý zdôrazňuje trhovú integráciu, ekonomickú efektívnosť, blaho spotrebiteľa, transparentnosť a súdny prieskum. Vietnamský súťažný režim naproti tomu funguje v rámci trhovej ekonomiky so socialistickým zameraním, kde je politika hospodárskej súťaže úzko spojená so štátnym riadením, rozvojovými prioritami a pretrvávajúcou úlohou štátnych podnikov. Štúdia preto argumentuje, že harmonizácia by nemala byť chápaná ako mechanická právna transplantácia, ale ako kontextovo citlivý proces funkčnej adaptácie. Navrhuje usmerňujúce zásady vrátane funkčnej ekvivalencie, funkčnej nezávislosti Národnej komisie pre hospodársku súťaž, jasnejších procesných záruk, zverejňovania odôvodnených rozhodnutí, posilneného súdneho prieskumu a silnejších mechanizmov cezhraničnej spolupráce. Osobitná pozornosť sa venuje kontrole koncentrácií v digitálnej ekonomike, vrátane vietnamského prahu hodnoty transakcie ako potenciálne užitočného nástroja na riešenie akvizícií s vysokou hodnotou a nízkymi príjmami, za predpokladu, že sa vyjasní miestna väzba (nexus) a kapacita presadzovania práva. Zistenia naznačujú, že Vietnam sa môže učiť zo skúseností EÚ a zároveň si zachovať inštitucionálnu realizovateľnosť vo vlastnom právnom a politickom kontexte. Článok prináša praktické odporúčania pre tvorcov politik, regulátorov a právnikov zapojených do reformy vietnamského súťažného práva a medzinárodnej hospodárskej integrácie.

I. INTRODUCTION

In recent years, the forms of economic governance and legal regulation have undergone powerful changes in the rapid process of globalisation. As goods, services, capital, and technology are no longer constrained within the national boundary, such movement across borders has provided new economic opportunities; however, difficult challenges arise due to complex regulatory coordination.³ One of the most important developments is the growing importance of competition law, which is viewed as playing a fundamental role in establishing market economies, preventing anti-competitive conduct, and protecting consumer welfare. This is because the rise of global trade and cross-border investments has contributed much to harmonising newfound interests in international competition law. This harmonisation ensures that domestic enterprises are able to compete fairly on the international stage and, equally important, foreign investors are guided by predictable and transparent rules.⁴ The European Union (EU), with a high degree of economic integration and strong legal frameworks, serves as a prototype for the formulation of contemporary competition laws as a result of its highly integrated legal mechanisms and standards; notwithstanding, for third-world economies like Vietnam, the issue of measuring local standards vis-à-vis international ones has become a matter of integrating and extending their capacity for trading. Like many developing economies, Vietnam expects to establish a modern competition law regime as a part of its broader transition from a centrally

³ DAMRO, C., GUAY, T. R. *European Competition Policy and Globalization*. Palgrave Macmillan UK eBooks, 2016. DOI 10.1057/9781137318671.; FRENZ, W. The significance of freedom of competition in the European Union Law. In: Springer eBooks, 2015, p. 3 – 106. DOI 10.1007/978-3-662-48593-4_1.; GSTÖHL, S., BIÈVRE, D. *The Trade Policy of the European Union*. London : Bloomsbury Publishing, 2017.

⁴ HEYL, K., EKARDT, F., ROOS, P., STUBENRAUCH, J., GARSKE, B. Free trade, environment, agriculture, and plurilateral treaties: the ambivalent example of Mercosur, CETA, and the EU–Vietnam free trade agreement. In: *Sustainability*, Vol. 13, No. 6, 2021, p. 3153. DOI 10.3390/su13063153.; HOANG, H. H., SICURELLI, D. The EU's preferential trade agreements with Singapore and Vietnam: market vs. normative imperatives. In: *Contemporary Politics*, Vol. 23, No. 4, 2017, p. 369 – 387. DOI 10.1080/13569775.2017.1289303.; MIRON, D. European Union trade policy. In: DIMA, A. (ed). *Doing Business in Europe. Contributions to Management Science*. Cham : Springer, 2018, p. 51 – 77. DOI 10.1007/978-3-319-72239-9_3.

planned economy to a market-oriented one. The enactment of the Competition Law in 2004, as revised in 2018,⁵ represents a significant milestone in Vietnam's legal reform towards international integration and in improving the operation of the domestic market. The 2018 competition law is comprehensive in scope, covering anti-competitive agreements, abuse of dominant market positions, economic concentration, and unfair competition, as well as the organization and authority of regulatory bodies. Despite that the Vietnamese competition law system remains relatively nascent compared to that of the EU in terms of doctrinal development and enforcement capacity.⁶ Many enforcement mechanisms are still emerging, and Vietnam is in the process of cultivating the institutional autonomy, procedural rigor, and compliance culture necessary to support effective implementation. The origins of EU competition law can be traced back to its roots in the signing of the Treaty of Rome in 1957,⁷ with further elaboration in the Treaty on the Functioning of the European Union (TFEU), especially in Articles 101 and 102.⁸ The competition policy of the EU has been considered to be among the most developed in the world and is designed to deliver a remarkably comprehensive set of goals, substantive rules, procedural protections, and institutional enforcement. Only parties adversely affected by specific decisions may appeal to the General Court, and subsequently, to the Court of Justice of the EU on points of law.⁹

It is widely acknowledged that there are a number of peculiarities in the EU model. It has initially established a well-functioning jurisprudence via the European Court of Justice and the General Court, which generates predictability or legal certainty for businesses and regulators.¹⁰ A second distinguishing characteristic of the EU system is its high degree of procedural transparency, respect for rights of defense, and avenues for judicial review, ensuring effective and legitimate decisions accepted by stakeholders.¹¹ Lastly, the enforcement regime continues to evolve to meet new demands, such as digitalisation, globalisation and sustainability, through allowing a broader interpretation of the rules and policy orientation, which is set by the European Commission.¹²

⁵ THE NATIONAL ASSEMBLY OF VIETNAM. *Competition Law*, Law No. 23/2018/QH14. 2018. [online] [cit. 9. septembra 2026]. Dostupné online: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2022/07/23-2018-qh14..pdf>.

⁶ LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.; NGUYEN, M., BENSEMANN, J., KELLY, S. Corporate social responsibility (CSR) in Vietnam: a conceptual framework. In: *International Journal of Corporate Social Responsibility*, Vol. 3, No. 1, 2018. DOI 10.1186/s40991-018-0032-5.; VALOCKOVA, B. *EU Competition Law: A Roadmap for ASEAN?* EUC Working Paper No. 25, 2015. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dr.ntu.edu.sg/server/api/core/bitstreams/f2a42584-53d2-4472-b020-48cef224c75d/content>.

⁷ THE EUROPEAN UNION (EU). *The EU's Competition Policy*. [online] [cit. 9. septembra 2026]. Dostupné online: https://competition-policy.ec.europa.eu/index_en.

⁸ THE EUROPEAN UNION (EU). *EU Merger Regulation (Regulation (EC) No 139/2004): The Control of Concentrations between Undertakings*. 2004. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2004/139/oj>.

⁹ CRAIG, P., BÚRCA, G., KLAMERT, M. *The Principle of Loyalty in EU Law*. Oxford Studies in European Law. Oxford : Oxford University Press, 2014. DOI 10.1093/acprof:oso/9780199683123.001.0001.; LORENZ, M. *An Introduction to EU Competition Law*. Cambridge : Cambridge University Press, 2013. DOI 10.1017/cbo9781139087452.

¹⁰ AHN, K. An online dispute resolution scheme to resolve e-commerce disputes in ASEAN. In: CHEN, L., KIMURA, F. (eds). *Developing the Digital Economy in ASEAN*. 1st ed. Routledge eBooks, 2019, p. 109 – 136. DOI 10.4324/9780429504853-6.; CASTELEIRO, A. D. The European Union's preferential trade agreements: between convergence and differentiation. In: *Yearbook of European Law*, Vol. 42, 2023, p. 102 – 134. DOI 10.1093/yel/yead003.; GERBRANDY, A. Rethinking competition law within the European economic constitution. In: *JCMS Journal of Common Market Studies*, Vol. 57, No. 1, 2019, p. 127 – 142. DOI 10.1111/jcms.12814.

¹¹ MIRON, D. European Union trade policy. In: DIMA, A. (ed). *Doing Business in Europe. Contributions to Management Science*. Cham : Springer, 2018, p. 51 – 77. DOI 10.1007/978-3-319-72239-9_3.

¹² MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; MEUNIER, S. *Trading Voices: The European Union in International Commercial Negotiations*. Princeton :

By contrast, in Vietnam, the National Competition Commission (NCC) may be subject to judicial review under specific conditions defined in the Law on Competition. Judicial review requires the complainant to demonstrate a direct legal interest affected by the NCC's decision, and courts primarily assess compliance with procedural requirements and legal norms rather than the merits of economic reasoning. Although Vietnam is inspired by global models in its legal regime and is in the process of creating a robust corpus of case law, it still has to develop institutional autonomy for the competition body and a compliance culture on the part of market-based participants. These differences highlight both the achievements and limitations of Vietnam's current competition law as instruments for further economic integration. Consequently, this research is motivated by the necessity to empirically analyse the long-lasting deficiencies that hinder the harmonisation of Vietnam's competition law with EU standards. Regarding the level of substantive law, there are still concerns about the significant differences in the conceptualisation and interpretation of key legal principles. These arguments might be what constitutes "dominance" in a market, how to evaluate "anti-competitive agreements," and what thresholds or criteria should apply for the control of mergers and acquisitions.¹³ These differences are not merely academic; they influence enforcement outcomes and business operations. For example, the Vietnamese law would stipulate different thresholds, such as market share rather than turnover or adopt other methodologies for assessment of relevant markets, leading to differences in enforcement outcomes compared to the EU.¹⁴ Another important one is the procedural law, Vietnam continues to confront challenges related to institutional independence, transparency, and effective deterrence, areas in which the EU model, supported by decades of practice and supranational oversight, offers valuable lessons.¹⁵ Loopholes in enforcement mechanisms, including limited resources, overlapping mandates, and gaps in investigative powers, have resulted in inconsistent or insufficient remedies for anti-competitive conduct.

Additionally, the efforts of Vietnam's legislative harmonisation can be recognised in the acceleration of Vietnam's relations with the EU after the acceptance of the EU-Vietnam Free Trade Agreement (EVFTA).¹⁶ The EVFTA contains significant competition policy provisions and supports regulatory cooperation and convergence.¹⁷ The failure to adequately harmonise the legislation could undermine Vietnam's credibility as a trading partner and reduce the

Princeton University Press – Torrossa, 2021. Dostupné online: <https://www.torrossa.com/en/resources/an/5564851?digital=true;> KADAR, M. European Union competition law in the digital era. In: *Zeitschrift Für Wettbewerbsrecht*, Vol. 13, No. 4, 2015, p. 342 – 363. DOI 10.15375/zw-2015-0403.; TOMÁŠEK, M., ŠMEJKAL, V., PETR, M. In search of a competition law model for ASEAN through a case study of Singapore, Malaysia and Vietnam: does the EU competition law model fit? In: *Digitální Repozitář UK*, 2022. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dspace.cuni.cz/handle/20.500.11956/179960>.

¹³ MORTON, F. S. The three pillars of effective European Union competition policy. Bruegel, 2024. [online] [cit. 9. septembra 2026]. Dostupné online: <http://www.jstor.org/stable/resrep63077>.

¹⁴ SAMUEL, G. *An Introduction to Comparative Law Theory and Method*. Vol. 11. Oxford : Hart Publishing, 2014.

¹⁵ FRENZ, W. The significance of freedom of competition in the European Union Law. In: Springer eBooks, 2015, p. 3 – 106. DOI 10.1007/978-3-662-48593-4_1.; GABATHULER, D., DEVROE, W. The European Union competition law framework. In: CAUFFMAN, C., HAO, Q. (eds). *China-EU Law Series*, Vol. 3, 2016, p. 7 – 37. DOI 10.1007/978-3-662-48735-8_2.; TRAN, V. P., DUONG, A. S. The concerns of nation-state sovereignty and international commercial law: a path to harmonisation. In: *Khazanah Hukum*, Vol. 6, No. 1, 2024, p. 34 – 45. DOI 10.15575/kh.v6i1.33809.

¹⁶ TTWTO VCCI – (FTA). *Full Text of EU-Vietnam Trade and Investment Agreements*. [online] [cit. 9. septembra 2026]. Dostupné online: <https://wtocenter.vn/chuyen-de/12778-eu-vietnam-trade-and-investment-agreements>.

¹⁷ HEYL, K., EKARDT, F., ROOS, P., STUBENRAUCH, J., GARSKE, B. Free trade, environment, agriculture, and plurilateral treaties: the ambivalent example of Mercosur, CETA, and the EU–Vietnam free trade agreement. In: *Sustainability*, Vol. 13, No. 6, 2021, p. 3153. DOI 10.3390/su13063153.; HOANG, H. H., SICURELLI, D. The EU's preferential trade agreements with Singapore and Vietnam: market vs. normative imperatives. In: *Contemporary Politics*, Vol. 23, No. 4, 2017, p. 369 – 387. DOI 10.1080/13569775.2017.1289303.; TRÖSTER, B., GRUMILLER, J., GROHS, H., RAZA, W., STARITZ, C., ARNIM, R. Combining trade and sustainability? The free trade agreement between the EU and Vietnam. In: *ÖFSE Policy Note*, No. 29/2019, 2019. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.econstor.eu/bitstream/10419/192973/1/1048633047.pdf>.

effectiveness of its domestic reforms in fostering investment and competition. Simultaneously, the lack of harmonisation can create legal uncertainties for businesses that operate across both jurisdictions, and it potentially hinders trade and investment flows.¹⁸ While some studies have addressed the legal reforms and enforcement challenges in Vietnam or examined the EU competition law model, there is still a significant gap in the literature to investigate actionable, context-sensitive principles for harmonisation that consider Vietnam's unique institutional, economic, and social context. For that reason, this research aims to apply a qualitative, comparative structural approach to analyse legal frameworks, enforcement structures, and underlying policy objectives in Vietnam and the EU.¹⁹ The ultimate goal is to identify a set of guiding principles that can assist policymakers, legislators, and practitioners as Vietnam continues to refine its competition law to comply with its international commitments. This study, therefore, informs academic debate on comparative competition law as well as the practical advancement of fair and effective market regulation in a rapidly changing global economy. Overall, this study informs both academic debate on comparative competition law and the practical advancement of fair and effective market regulation. The research aims to answer the following questions:

1. What are the key differences between Vietnam's Competition Law and EU competition regulations?
2. What major challenges hinder harmonization of competition laws between Vietnam and the EU?
3. Which principles can effectively guide the harmonization of Vietnam's Competition Law with EU standards?

II. METHODS

This qualitative study adopts a comparative structural research design with the concept of legal comparative method by Samuel²⁰ to provide a rigorous examination of competition law frameworks between Vietnam and the European Union. The research was based on secondary sources to review official legal instruments and regulations from both jurisdictions. Specifically, the analysis concentrates on the TFEU, particularly Article 101²¹ on anti-competitive agreements and Article 102²² on abuse of dominance. Besides, it reviewed the EU Merger Regulation (Regulation (EC) No 139/2004)²³ and Regulation (EU) No 1/2003,²⁴ because this regulation

¹⁸ CALBOLI, I. The intricate relationship between intellectual property exhaustion and free movement of goods in regional organizations: comparing the EU/EEA, NAFTA, and ASEAN. In: *Queen Mary Journal of Intellectual Property*, Vol. 9, No. 1, 2019, p. 22 – 41. DOI 10.4337/qmjip.2019.01.02.; MA, B., YU, D. Balancing regional integration and national diversity in IP harmonization: lessons from the EU and ASEAN. In: *Asian Journal of Technology Innovation*, 2025, p. 1 – 20. DOI 10.1080/19761597.2025.2495354.; PHUONG, N. C., NGUYEN, T. D. K. International harmonization and national particularities of accounting. In: *Journal of Accounting & Organizational Change*, Vol. 8, No. 3, 2012, p. 431 – 451. DOI 10.1108/18325911211258371.

¹⁹ MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; TRUONG, H. T. A comparative study on goals of competition law with the case of merger regulation and recommendations to Vietnam. In: *Science & Technology Development Journal – Economics – Law and Management*, Vol. 5, No. 1, 2020. DOI 10.32508/stdjelm.v5i1.684.

²⁰ STYLIANOU, K., IACOVIDES, M. The goals of EU competition law: a comprehensive empirical investigation. In: *Legal Studies*, Vol. 42, No. 4, 2022, p. 620 – 648. DOI 10.1017/lst.2022.8.

²¹ THE EUROPEAN UNION (EU). *Treaty on the Functioning of the European Union*, Article 102 (Abuse of dominance). 2012. [online] [cit. 9. septembra 2026]. Dostupné online: http://data.europa.eu/eli/treaty/tfeu_2012/art_102/oj.

²² THE EUROPEAN UNION (EU). *Treaty on the Functioning of the European Union*, Article 102 (Abuse of dominance). 2012. [online] [cit. 9. septembra 2026]. Dostupné online: http://data.europa.eu/eli/treaty/tfeu_2012/art_102/oj.

²³ THE EUROPEAN UNION (EU). *EU Merger Regulation (Regulation (EC) No 139/2004): The Control of Concentrations between Undertakings*. 2004. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2004/139/oj>.

greatly governs the implementation of competition rules under Articles 81 and 82 of the Treaty.²⁵ For the Vietnamese context, the 2018 Competition Law²⁶ was thoroughly utilized as the main legal source. Additionally, this study explicitly considers the procedural possibility for Vietnamese parties to challenge National Competition Commission decisions in court under administrative procedure law. Hence, the analytical method of comparison engages in a doctrinal examination of each system's legal structures, which involve central concepts and enforcement mechanisms in the two selected systems. The comparison incorporates an analysis of the underlying policy objectives and socioeconomic contexts, such as the EU's ordoliberal focus on market integration and Vietnam's socialist-oriented market model, to highlight divergences that affect enforcement outcomes. The study systematically identifies changes to substantive provisions, such as the treatment of market dominance, anti-competitive practices, and merger control. It further examines the treatment of emerging challenges in the digital economy, including transaction value thresholds in Vietnam as a potential mechanism to capture high-value, low-revenue acquisitions. It considers the procedural dimensions of regulation through the lens of enforcement and institutional design. This includes the assessment of institutional independence, functional separation between investigative and adjudicative functions, transparency of decisions, and potential conflicts arising from state ownership of enterprises. The study goal intends to establish guiding principles for harmonisation that draw from the strengths and address the weaknesses of both legal frameworks through a critical review of these legislative instruments. Consequently, the finding facilitates deeper comparisons between competition laws between Vietnam and the EU and provides practical policy recommendations for policy-makers and practitioners who strive for effective and context-sensitive legal alignment.

III. DISCUSSION

1. Comparative analysis of Vietnam's competition law and European Union regulatory frameworks

The EU and Vietnam have the same views on fundamental values of competition law, which play a role in maintaining the transparency of a market economy. They have a substantive scope of competition law that indeed settled for the control of anti-competitive agreements, abuse of dominant position, and the control of mergers and acquisitions.²⁷ Nonetheless, the analysis highlights the structural and epistemological differences between the two systems, including the EU's ordoliberal approach versus Vietnam's socialist-oriented market model, which affect enforcement practices and policy objectives. Thus, competition law in the EU operates within an extensive legal and regulatory landscape, which is known as the TFEU to provide not only substantive prohibitions but also institutional regimes for enforcement and development of competition policy itself.²⁸ The EU competition law has a broad context, it covers all

²⁴ THE EUROPEAN UNION (EU). *Regulation (EU) No 1/2003 on the Implementation of the Rules on Competition Laid Down in Articles 81 and 82 of the Treaty*. 2009. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2003/1/2009-07-01>.

²⁵ THE EUROPEAN UNION (EU). *Regulation (EU) No 1/2003 on the Implementation of the Rules on Competition Laid Down in Articles 81 and 82 of the Treaty*. 2009. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2003/1/2009-07-01>.

²⁶ THE NATIONAL ASSEMBLY OF VIETNAM. *Competition Law, Law No. 23/2018/QH14*. 2018. [online] [cit. 9. septembra 2026]. Dostupné online: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2022/07/23-2018-qh14..pdf>.

²⁷ BERNATT, M., ZOBOLI, L. *Competition law*. Edward Elgar Publishing eBooks, 2023, p. 398 – 414. DOI 10.4337/9781802208030.00035.

²⁸ CRAIG, P., BÚRCA, G., KLAMERT, M. *The Principle of Loyalty in EU Law*. Oxford Studies in European Law. Oxford : Oxford University Press, 2014. DOI 10.1093/acprof:oso/9780199683123.001.0001.; DAMRO, C., GUAY, T. R. *European*

undertakings that operate within the internal market, it is not concerned about any nationality. It is designed to preserve market integration, prevent distortions of trade, and protect consumer welfare. Otherwise, Vietnam's Competition Law, especially after its comprehensive reform in 2018, has a substantive scope similar to that of the EU model. It regulates anti-competitive agreements, abuse of dominant position and economic concentration;²⁹ however, it is national law tailored to domestic priorities, with additional provisions for administrative aspects and unfair competition specific to Vietnam.³⁰

The definition and regulation of anti-competitive agreements is a foundational element of the EU and Vietnamese competition law regimes. In the EU, Article 101 of the TFEU prohibits agreements between undertakings, decisions by associations of undertakings, and concerted practices because these actions may affect trade between member states and lead to some negative impacts on the prevention, restriction, or distortion of competition within the internal market. As such, this regulation enshrines horizontal and vertical agreements, including price-fixing, market sharing, output limitation, and collusive tendering.³¹ The EU legal system recognizes exemptions for certain agreements that contribute to improving production, promoting technical or economic progress, or benefiting consumers, provided they do not impose unnecessary restrictions or eliminate competition.³² Notably, Vietnam's Competition Law follows a similar approach in prohibiting both horizontal and vertical anti-competitive agreements that restrict competition in the market.³³ Notably, Vietnam's Competition Law follows a similar approach, listing prohibited agreements such as price-fixing, customer or market sharing, bid rigging, and agreements to prevent market entry, while allowing exemptions for pro-competitive purposes subject to review by the National Competition Commission. Nonetheless, while the EU system places significant emphasis on the effect-based analysis and balances anti-competitive and pro-competitive aspects, Vietnam's law is still developing its analytical sophistication and tends to adopt a more formalistic approach.³⁴ Furthermore, while the EU has established detailed guidance and block exemptions for specific sectors (i.e., vertical agreements in the motor vehicle or technology markets), Vietnam is in the early stages of developing such sector-specific frameworks. This difference highlights the need for Vietnam to gradually incorporate economic-effect assessments and sectoral guidelines to move closer to an effect-based approach.

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²⁹ LE, T. T. A., LE, Q. T., DO, T. T. T., TRAN, T. T., MAI, X. D., VO, X. V. The evolution of economics and law in Vietnam. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0048.; LUU, H. L. Regional harmonization of competition law and policy: an ASEAN approach. In: *Asian Journal of International Law*, Vol. 2, No. 2, 2012, p. 291 – 321. DOI 10.1017/s2044251312000124.

³⁰ GABATHULER, D., DEVROE, W. The European Union competition law framework. In: CAUFFMAN, C., HAO, Q. (eds). *China-EU Law Series*, Vol. 3, 2016, p. 7 – 37. DOI 10.1007/978-3-662-48735-8_2.; SAMUEL, G. *An Introduction to Comparative Law Theory and Method*. Vol. 11. Oxford : Hart Publishing, 2014.

³¹ GSTÖHL, S., BIÈVRE, D. *The Trade Policy of the European Union*. London : Bloomsbury Publishing, 2017.; LORENZ, M. *An Introduction to EU Competition Law*. Cambridge : Cambridge University Press, 2013. DOI 10.1017/cbo9781139087452.

³² MIRON, D. European Union trade policy. In: DIMA, A. (ed). *Doing Business in Europe. Contributions to Management Science*. Cham : Springer, 2018, p. 51 – 77. DOI 10.1007/978-3-319-72239-9_3.

³³ LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.; PHUONG, N. C., NGUYEN, T. D. K. International harmonization and national particularities of accounting. In: *Journal of Accounting & Organizational Change*, Vol. 8, No. 3, 2012, p. 431 – 451. DOI 10.1108/18325911211258371.

³⁴ TOMÁŠEK, M., ŠMEJKAL, V., PETR, M. In search of a competition law model for ASEAN through a case study of Singapore, Malaysia and Vietnam: does the EU competition law model fit? In: *Digitální Repozitář UK*, 2022. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dspace.cuni.cz/handle/20.500.11956/179960>.

The concept of abuse of dominance is addressed in Article 102 of the TFEU, which prohibits any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it.³⁵ Examples of prohibited conduct include imposing unfair purchase or selling prices, limiting production or technical development, discriminating between trading partners, and tying or bundling unrelated products. The EU regime places significant weight on market definition and market share in assessing dominance, but also considers other factors such as barriers to entry, market structure, and the conduct of the undertaking.³⁶ Vietnamese law similarly prohibits abuse of dominance but sets clearer quantitative thresholds (30% for a single enterprise, 50% for two enterprises), creating practical differences with the EU's flexible, case-by-case assessment. More significantly, Vietnam's approach remains largely formalistic, whereas EU jurisprudence considers economic effects, efficiencies, and consumer welfare in determining abuse.³⁷

Merger control is another key area of convergence and divergence between the two systems. The EU Merger Regulation (Regulation (EC) No. 139/2004)³⁸ establishes a comprehensive framework for reviewing mergers and acquisitions that have a "community dimension" – that is, transactions likely to have significant effects on competition within the EU.³⁹ Vietnam's transaction value thresholds may offer advantages in capturing high-value, low-revenue mergers, such as potential "killer acquisitions" in the tech sector, provided that the local nexus is properly addressed. Vietnam's Competition Law contains provisions on economic concentration, including mergers, consolidations, acquisitions, and joint ventures, and subjects such transactions to review if certain market share or transaction value thresholds are met.⁴⁰ The Vietnamese system sets out mandatory notification requirements and empowers the National Competition Commission to assess whether a proposed concentration would significantly restrict competition in the market. Nevertheless, Vietnam's merger control regime is less mature than the EU's, with fewer published decisions, less detailed procedural guidance, and a less developed practice of substantive assessment.⁴¹ Yet, Vietnam's merger control regime is less mature, with fewer published decisions, less detailed guidance, and developing methodologies for market definition and impact assessment.

Enforcement mechanisms in the EU and Vietnam reflect important institutional and procedural differences, despite some common features. In the EU, competition law enforcement

³⁵ MEUNIER, S. *Trading Voices: The European Union in International Commercial Negotiations*. Princeton : Princeton University Press – Torrossa, 2021. Dostupné online: <https://www.torrossa.com/en/resources/an/5564851?digital=true;> MORTON, F. S. The three pillars of effective European Union competition policy. Bruegel, 2024. [online] [cit. 9. septembra 2026]. Dostupné online: <http://www.jstor.org/stable/resrep63077>.

³⁶ CASTELEIRO, A. D. The European Union's preferential trade agreements: between convergence and differentiation. In: *Yearbook of European Law*, Vol. 42, 2023, p. 102 – 134. DOI 10.1093/yel/yead003.; ŠMEJKAL, V. Competition law and the social market economy goal of the EU. In: *International Comparative Jurisprudence*, Vol. 1, No. 1, 2015, p. 33 – 43. DOI 10.1016/j.icj.2015.10.002.

³⁷ LAURSEN, F., ROEDERER-RYNNING, C. Introduction: the new EU FTAs as contentious market regulation. In: Routledge eBooks, 2020, p. 1 – 17. DOI 10.4324/9780429060052-1.; VERGHESE, A. S. Trade and competition policy. In: Edward Elgar Publishing eBooks, 2023, p. 151 – 168. DOI 10.4337/9781800882867.00015.

³⁸ THE EUROPEAN UNION (EU). *EU Merger Regulation (Regulation (EC) No 139/2004): The Control of Concentrations between Undertakings*. 2004. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2004/139/oj>.

³⁹ THE EUROPEAN UNION (EU). *EU Merger Regulation (Regulation (EC) No 139/2004): The Control of Concentrations between Undertakings*. 2004. [online] [cit. 9. septembra 2026]. Dostupné online: <http://data.europa.eu/eli/reg/2004/139/oj>.

⁴⁰ TRUONG, H. T. A comparative study on goals of competition law with the case of merger regulation and recommendations to Vietnam. In: *Science & Technology Development Journal – Economics – Law and Management*, Vol. 5, No. 1, 2020. DOI 10.32508/stdjelm.v5i1.684.

⁴¹ LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.; VERGHESE, A. S. Trade and competition policy. In: Edward Elgar Publishing eBooks, 2023, p. 151 – 168. DOI 10.4337/9781800882867.00015.

is primarily carried out by the European Commission, which acts as either an investigator or a decision-maker in complex cases, which are likely to infringe the provisions of Articles 101 and 102 of the TFEU.⁴² On that account, the Commission has extensive investigative powers, namely the authority to conduct dawn raids, request information, interview witnesses, and impose substantial fines on violating enterprises. Notably, the enforcement of the EU competition law is further supplemented by national competition authorities, promoting cooperation through the European Competition Network.⁴³ Importantly, Decisions of the European Commission may be subject to judicial review by the General Court and, subsequently, by the Court of Justice of the EU, depending on the procedural context. On the contrary, Vietnam's enforcement framework is administered by the National Competition Commission, which is responsible for investigating, prosecuting, and sanctioning violations of the Competition Law. Although the National Competition Commission has been empowered with a range of investigative and decision-making functions, the institutional structure is still relatively new, and competition law enforcement practice is still evolving.⁴⁴ Compared to the EU, Vietnam experiences many challenges in terms of institutional independence, resource allocation, and the technical capacity of enforcement officials. Administrative processes can be slower and less transparent, and there is a need to further strengthen procedural rights, such as the right of defence and opportunities for appeal.⁴⁵ Furthermore, public awareness of competition law and the culture of compliance among businesses are still not as strong as in the EU, which leads to limited private enforcement and fewer landmark cases. Another noteworthy difference is the degree of transparency and guidance that market participants easily have access to. The European Commission and national competition authorities in the EU regularly issue guidelines, policy statements, and decisions, which are publicly available and serve as references for businesses and practitioners. Otherwise, Vietnam is developing its own body of guidance to enhance predictability and legal certainty, including public decisions and detailed procedural rules.⁴⁶

⁴² MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; LORENZ, M. *An Introduction to EU Competition Law*. Cambridge : Cambridge University Press, 2013. DOI 10.1017/cbo9781139087452.

⁴³ CRAIG, P., BÚRCA, G., KLAMERT, M. *The Principle of Loyalty in EU Law*. Oxford Studies in European Law. Oxford : Oxford University Press, 2014. DOI 10.1093/acprof:oso/9780199683123.001.0001.; GABATHULER, D., DEVROE, W. The European Union competition law framework. In: CAUFFMAN, C., HAO, Q. (eds). *China-EU Law Series*, Vol. 3, 2016, p. 7 – 37. DOI 10.1007/978-3-662-48735-8_2.

⁴⁴ KURNIAWAN, I. G. A., DISANTARA, F. P., THUONG, M. T. H., NUTAKOR, B. S. M. The business law in contemporary times: a comparison of Indonesia, Vietnam, and Ghana. In: *Substantive Justice International Journal of Law*, Vol. 7, No. 2, 2024, p. 114 – 141. DOI 10.56087/substantivejustice.v7i2.297.; NGO, T. T. Vietnam's implementation of labour provisions in the European Union – Vietnam Free Trade Agreement: recent developments and insights. In: *Legal Issues of Economic Integration*, Vol. 52, No. 1, 2025, p. 67 – 88. DOI 10.54648/leie2025004.

⁴⁵ BERNATT, M., ZOBOLI, L. Competition law. Edward Elgar Publishing eBooks, 2023, p. 398 – 414. DOI 10.4337/9781802208030.00035.; TOMÁŠEK, M., ŠMEJKAL, V., PETR, M. In search of a competition law model for ASEAN through a case study of Singapore, Malaysia and Vietnam: does the EU competition law model fit? In: *Digitální Repozitář UK*, 2022. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dspace.cuni.cz/handle/20.500.11956/179960>.

⁴⁶ MORTON, F. S. The three pillars of effective European Union competition policy. Bruegel, 2024. [online] [cit. 9. septembra 2026]. Dostupné online: <http://www.jstor.org/stable/resrep63077>.; LICETTI, M., MIRALLES, G., TEH, R. Competition policy. In: MATTOO, A., ROCHA, N., RUTA, M. (eds). *Handbook of Deep Trade Agreements*. 2020, p. 502 – 505. [online] [cit. 9. septembra 2026]. Dostupné online: <https://documents1.worldbank.org/curated/en/685311594363725995/pdf/Handbook-of-Deep-Trade-Agreements.pdf>.; TRÖSTER, B., GRUMILLER, J., GROHS, H., RAZA, W., STARITZ, C., ARNIM, R. Combining trade and sustainability? The free trade agreement between the EU and Vietnam. In: *ÖFSE Policy Note*, No. 29/2019, 2019. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.econstor.eu/bitstream/10419/192973/1/1048633047.pdf>.

2. Key challenges in harmonizing Vietnam's competition law with EU Regulations: Legal traditions, institutions, and policy objectives

A number of approaches have been identified in the process of harmonising the Vietnamese Competition Law with existing EU regulations. These challenges are rooted not only in differences in statutory provisions but also in the underlying legal and institutional structures, as well as broader economic, historical, and political contexts that influence each country's competition policy. Accordingly, an in-depth review of these approaches will identify the complexities and limitations of pursuing legal convergence, while highlighting the importance of context-sensitive solutions.

2.1. Divergent legal traditions and philosophical foundations

Differences in legal traditions are one of the main reasons for the slow pace of harmonisation in Vietnam. The EU competition law system is unique in that it is rooted in the civil law tradition, but it has developed into a supranational legal system with significant regulatory and judicial review.⁴⁷ The EU competition law has been evolving for the functional objective of market integration, which has been shaped over decades by the Court of Justice of the European Union (CJEU) and policy refinements by the European Commission. This reflects a jurisprudence-based and effect-oriented approach, contrasting with Vietnam's more formalistic, practice-oriented, and legislation-driven approach. This casuistic legal regime has demonstrated the necessity of putting in place clear legal rules, the principle of proportionality, the principle of proportionality, and the balance of various policy interests between numerous policy objectives, economic efficiency, consumer welfare, and the integrity of the single market.⁴⁸ Meanwhile, Vietnam has recently adopted competition law, as its economy has transitioned from a centrally planned economy to a socialist-oriented market economy in recent decades.⁴⁹ The legal tradition in Vietnam has a mixed legal system that includes civil law, socialist law, and significant local adaptations. As a consequence, Vietnam relies less on judicial precedents and has a limited culture of independent judicial review, creating challenges in adopting EU-style jurisprudence.⁵⁰ Contrariwise, the issue is that the lack of a well-rooted legal culture of independent judicial review in economic regulation remains a significant challenge when Vietnam tries to integrate with the EU model, which is more flexible and jurisprudence-based. Moreover, the EU competition law operates within the highly diverse context of a single market, while Vietnam's competition law has been designed to meet domestic needs and developmental priorities. The philosophical foundations of competition law, especially the emphasis on the economic efficiency of industrial policy and commissions of policy, and consumer welfare, have a

⁴⁷ CASTELEIRO, A. D. The European Union's preferential trade agreements: between convergence and differentiation. In: *Yearbook of European Law*, Vol. 42, 2023, p. 102 – 134. DOI 10.1093/yel/yead003.; GERBRANDY, A. Rethinking competition law within the European economic constitution. In: *JCMS Journal of Common Market Studies*, Vol. 57, No. 1, 2019, p. 127 – 142. DOI 10.1111/jcms.12814.; PIJETLOVIC, K. EU competition law and organisational rules. In: DUVAL, A., ROMPUY, B. V. (eds). *ASSER International Sports Law Series*. 2016, p. 117 – 151. DOI 10.1007/978-94-6265-120-3_6.

⁴⁸ LAURSEN, F., ROEDERER-RYNNING, C. Introduction: the new EU FTAs as contentious market regulation. In: Routledge eBooks, 2020, p. 1 – 17. DOI 10.4324/9780429060052-1.; ŠMEJKAL, V. Competition law and the social market economy goal of the EU. In: *International Comparative Jurisprudence*, Vol. 1, No. 1, 2015, p. 33 – 43. DOI 10.1016/j.icj.2015.10.002.

⁴⁹ LE, T. T. A., LE, Q. T., DO, T. T. T., TRAN, T. T., MAI, X. D., VO, X. V. The evolution of economics and law in Vietnam. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0048.; LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.

⁵⁰ GSTÖHL, S., BIÈVRE, D. *The Trade Policy of the European Union*. London : Bloomsbury Publishing, 2017.; KURNIAWAN, I. G. A., DISANTARA, F. P., THUONG, M. T. H., NUTAKOR, B. S. M. The business law in contemporary times: a comparison of Indonesia, Vietnam, and Ghana. In: *Substantive Justice International Journal of Law*, Vol. 7, No. 2, 2024, p. 114 – 141. DOI 10.56087/substantivejustice.v7i2.297.

significant divergence, which causes challenges for diverse interpretations and enforcement practices.⁵¹ Thus, harmonisation requires understanding these fundamentally different modes of legal reasoning and policy objectives.

2.2. Institutional capacities and administrative frameworks

Institutional capacity is another critical area in which harmonisation encounters serious barriers. This is quite opposite to Vietnam where the EU has an established enforcement system with a strong institutional infrastructure where enforcement is conducted by a combination of different actors that includes the European Commission, national competition authorities (NCAs) in Member States, and an established system of judicial review by the CJEU and the General Court.⁵² Since each of these institutions has the technical expertise, autonomy, and resources, they can conduct investigations authoritatively and enforce developmental policy effectively. Conversely, the NCC in Vietnam, established under the 2018 Competition Law, is still relatively new and faces challenges in functional independence, budgetary allocations, staffing, and training for enforcement officials.⁵³ There is an overlap in functions between different government bodies that causes defective enforcement or a lack of authority. Nevertheless, the ability to conduct thorough investigations, such as dawn raids, forensic analysis of electronic evidence, and economic assessments, relies upon specialised skills and resources which are still in the developmental process in Vietnam.⁵⁴ Quite opposite, the Directorate-General for Competition of the European Commission has been actively involved in conducting complex cross-border enforcement actions, applying sophisticated economic analysis and using investigative measures backed by well-established procedural and legal protections. As far as the enforcement of competition laws is concerned, the independence of enforcement agencies has an important role in successful competition law enforcement. In contrast, the EU system provides guarantees of both institutional and decisional independence to its enforcement bodies, while institutions may be subject to administrative or political influence, which can reduce both the consistency and impartiality of enforcement outcomes.⁵⁵ Such a lack of equal institutional power and autonomy is an important impediment to full harmonisation, which remains nothing more than transplanting legal norms without taking into account different enforcement practices. These risks could result in a “law on the books” without meaningful practice of this law.

⁵¹ MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; SAMUEL, G. *An Introduction to Comparative Law Theory and Method*. Vol. 11. Oxford : Hart Publishing, 2014.

⁵² AHN, K. An online dispute resolution scheme to resolve e-commerce disputes in ASEAN. In: CHEN, L., KIMURA, F. (eds). *Developing the Digital Economy in ASEAN*. 1st ed. Routledge eBooks, 2019, p. 109 – 136. DOI 10.4324/9780429504853-6.; CHEN, V., GODWIN, A., RAMSAY, I. An ASEAN framework for cross-border cooperation in financial consumer dispute resolution. In: *Asian Journal of Comparative Law*, Vol. 12, No. 1, 2017, p. 167 – 196. DOI 10.1017/asjcl.2017.1.

⁵³ LUU, H. L. Regional harmonization of competition law and policy: an ASEAN approach. In: *Asian Journal of International Law*, Vol. 2, No. 2, 2012, p. 291 – 321. DOI 10.1017/s2044251312000124.

⁵⁴ BERNATT, M., ZOBOLI, L. Competition law. Edward Elgar Publishing eBooks, 2023, p. 398 – 414. DOI 10.4337/9781802208030.00035.; GSTÖHL, S., BIÈVRE, D. *The Trade Policy of the European Union*. London : Bloomsbury Publishing, 2017.; TOMÁŠEK, M., ŠMEJKAL, V., PETR, M. In search of a competition law model for ASEAN through a case study of Singapore, Malaysia and Vietnam: does the EU competition law model fit? In: *Digitální Repozitář UK*, 2022. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dspace.cuni.cz/handle/20.500.11956/179960>.

⁵⁵ CASTELEIRO, A. D. The European Union's preferential trade agreements: between convergence and differentiation. In: *Yearbook of European Law*, Vol. 42, 2023, p. 102 – 134. DOI 10.1093/yel/yead003.; NGO, T. T. Vietnam's implementation of labour provisions in the European Union – Vietnam Free Trade Agreement: recent developments and insights. In: *Legal Issues of Economic Integration*, Vol. 52, No. 1, 2025, p. 67 – 88. DOI 10.54648/leie2025004.; VERGHESE, A. S. Trade and competition policy. In: Edward Elgar Publishing eBooks, 2023, p. 151 – 168. DOI 10.4337/9781800882867.00015.

2.3. Enforcement approaches and procedural challenges

The comparison of the enforcement measures brings additional complexity and challenges for this harmonisation process. The EU has created a complex, multi-level system of enforcement that combines public enforcement through the Commission and NCAs with private enforcement via courts.⁵⁶ This dual system creates a variety of remedies, including civil fines, cease and desist orders, and private actions for damages. This offers a regime of deterrence and redress to the victim parties. Vietnam has a specific system of administrative enforcement and limited possibilities for recourse to the judiciary or private mechanisms for cases.⁵⁷ The procedural safeguards for businesses and individuals to conduct investigations, such as the right of defence, access to evidence, and opportunities for appeal, are less robust than in the EU, where procedural fairness and judicial review are central tenets.⁵⁸ Consequently, businesses in Vietnam are likely to view competition law enforcement as less predictable and more susceptible to administrative discretion or external pressures. Transparency and legal certainty are mainly central to effective enforcement. Indeed, the EU regularly publishes detailed guidelines, notices, and decisions, which help build up a well-developed body of interpretative guidance for market participants. In another case, Vietnam's competition law regime is still developing such resources, but these resources are likely to encounter few published decisions and limited interpretative guidance available to businesses and practitioners.⁵⁹ The absence of such transparency can lead to inconsistent application, uncertainty for investors, and reduced incentives for voluntary compliance. Another challenge concerns the use of economic analysis and market definition in enforcement. EU authorities make extensive use of economic evidence in defining relevant markets, assessing dominance, and evaluating anti-competitive effects, drawing on a deep pool of expertise in law and economics.⁶⁰ Vietnamese enforcement bodies are gradually building such capacity, but still tend to rely more heavily on formalistic criteria such as market share thresholds, with less emphasis on dynamic market effects, efficiencies, and consumer welfare impacts.

⁵⁶ CALBOLI, I. The intricate relationship between intellectual property exhaustion and free movement of goods in regional organizations: comparing the EU/EEA, NAFTA, and ASEAN. In: *Queen Mary Journal of Intellectual Property*, Vol. 9, No. 1, 2019, p. 22 – 41. DOI 10.4337/qmjip.2019.01.02.; EZRACHI, A. EU competition law goals and the digital economy. In: *SSRN Electronic Journal*, 2018. DOI 10.2139/ssrn.3191766.; FRESE, M. J. *Sanctions in EU Competition Law: Principles and Practice*. London : Bloomsbury Publishing, 2014. DOI 10.5040/9781474201674.; LE, T. T. A., LE, Q. T., DO, T. T. T., TRAN, T. T., MAI, X. D., VO, X. V. The evolution of economics and law in Vietnam. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0048.

⁵⁷ LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.; HEYL, K., EKARDT, F., ROOS, P., STUBENRAUCH, J., GARSKE, B. Free trade, environment, agriculture, and plurilateral treaties: the ambivalent example of Mercosur, CETA, and the EU–Vietnam free trade agreement. In: *Sustainability*, Vol. 13, No. 6, 2021, p. 3153. DOI 10.3390/su13063153.

⁵⁸ GABATHULER, D., DEVROE, W. The European Union competition law framework. In: CAUFFMAN, C., HAO, Q. (eds). *China-EU Law Series*, Vol. 3, 2016, p. 7 – 37. DOI 10.1007/978-3-662-48735-8_2.; LORENZ, M. *An Introduction to EU Competition Law*. Cambridge : Cambridge University Press, 2013. DOI 10.1017/cbo9781139087452.; VALOCKOVA, B. *EU Competition Law: A Roadmap for ASEAN?* EUC Working Paper No. 25, 2015. [online] [cit. 9. septembra 2026]. Dostupné online: <https://dr.ntu.edu.sg/server/api/core/bitstreams/f2a42584-53d2-4472-b020-48cef224c75d/content>.

⁵⁹ TRAN, V. P., DUONG, A. S. The concerns of nation-state sovereignty and international commercial law: a path to harmonisation. In: *Khazanah Hukum*, Vol. 6, No. 1, 2024, p. 34 – 45. DOI 10.15575/kh.v6i1.33809.

⁶⁰ CHEN, V., GODWIN, A., RAMSAY, I. An ASEAN framework for cross-border cooperation in financial consumer dispute resolution. In: *Asian Journal of Comparative Law*, Vol. 12, No. 1, 2017, p. 167 – 196. DOI 10.1017/asjcl.2017.1.; ŠMEJKAL, V. Competition law and the social market economy goal of the EU. In: *International Comparative Jurisprudence*, Vol. 1, No. 1, 2015, p. 33 – 43. DOI 10.1016/j.icj.2015.10.002.

2.4. Policy objectives and socioeconomic contexts

The far-reaching socioeconomic frameworks and overarching goals frequently complicate the process of legislative harmonisation. The EU competition law serves several policy goals such as maintaining market integration, promoting consumer welfare, ensuring economic efficiency, and addressing social and environmental considerations.⁶¹ For this reason, the competition law of the EU is continuously modified to accommodate new issues like digital platforms, globalisation, and sustainability. Decisions are guided by a sophisticated balance of interests and are informed by extensive stakeholder consultation and judicial oversight. So, Vietnam's competition policy intertwines with the balance of liberalised markets and national development goals, social stability, and industrial policy.⁶² Currently, Vietnam is undergoing a transitional period; thereby, competition law during this period of transition cannot focus on market efficiency. Instead, it can be used to defend certain sectors of domestic industry, promote small and medium-sized enterprises (SMEs), or pursue other developmental objectives. These broader objectives can sometimes lead to tensions with pure economic efficiency, which generates differences in how exemptions are granted, how dominance is defined, or how public interest criteria are incorporated into merger control. Likewise, Vietnam's economic development, industrial structure, and the role of state-owned enterprises (SOEs) pose particular issues for the enforcement of competition law due to Vietnam's development level. The prominence of SOEs and the ongoing privatisation process suggest that competition policy will maybe intersect with other governmental policy goals such as socio-political equality, employment, and regional development-oriented priorities.⁶³ Conversely, the EU's system is based on a distinct separation between regulatory authorities and market participants, which emphasises less scope for political or developmental considerations in enforcement. Lastly, cultural factors on policy convergence, such as business practices, public culture on compliance, and public attitude on competition, have a significant impact and determine the effectiveness and direction of convergence.⁶⁴ In the EU, the enforcement and implementation of these marketing campaigns has fostered a compliance-oriented business culture, while the efforts to promote

⁶¹ MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; SAMUEL, G. *An Introduction to Comparative Law Theory and Method*. Vol. 11. Oxford : Hart Publishing, 2014.

⁶² NGO, T. T. Vietnam's implementation of labour provisions in the European Union – Vietnam Free Trade Agreement: recent developments and insights. In: *Legal Issues of Economic Integration*, Vol. 52, No. 1, 2025, p. 67 – 88. DOI 10.54648/leie2025004.; HOANG, H. H., SICURELLI, D. The EU's preferential trade agreements with Singapore and Vietnam: market vs. normative imperatives. In: *Contemporary Politics*, Vol. 23, No. 4, 2017, p. 369 – 387. DOI 10.1080/13569775.2017.1289303.; PHAN, M. G. Impact of international trade agreements on commercial law in Vietnam. In: *Russian Law Journal*, Vol. 11, No. 3, 2023, p. 2797 – 2807. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.russianlawjournal.org/index.php/journal/article/view/2255/1238>.

⁶³ LONG, T. T., HOA, N. X. Controlling collusion in the era of algorithms: a comparative analysis of European and Vietnamese competition laws. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0023.; PHUONG, N. C., NGUYEN, T. D. K. International harmonization and national particularities of accounting. In: *Journal of Accounting & Organizational Change*, Vol. 8, No. 3, 2012, p. 431 – 451. DOI 10.1108/18325911211258371.; TRAN, V. P., DUONG, A. S. The concerns of nation-state sovereignty and international commercial law: a path to harmonisation. In: *Khazanah Hukum*, Vol. 6, No. 1, 2024, p. 34 – 45. DOI 10.15575/kh.v6i1.33809.

⁶⁴ LE, T. T. A., LE, Q. T., DO, T. T. T., TRAN, T. T., MAI, X. D., VO, X. V. The evolution of economics and law in Vietnam. In: *Asian Journal of Law and Economics*, 2025. DOI 10.1515/ajle-2025-0048.; NGUYEN, M., BENSEMANN, J., KELLY, S. Corporate social responsibility (CSR) in Vietnam: a conceptual framework. In: *International Journal of Corporate Social Responsibility*, Vol. 3, No. 1, 2018. DOI 10.1186/s40991-018-0032-5.; TRUONG, H. T. A comparative study on goals of competition law with the case of merger regulation and recommendations to Vietnam. In: *Science & Technology Development Journal – Economics – Law and Management*, Vol. 5, No. 1, 2020. DOI 10.32508/stdjelm.v5i1.684.

understanding and acceptance of the competition law in Vietnam remain in the developmental stage.

2.5. Cross-border and international coordination

An additional challenge concerns the coordination of enforcement in cross-border cases. As Vietnam becomes increasingly integrated into the global economy, its relations with the EU deepen through agreements like the EVFTA, which increases the likelihood of cases involving multinational or transnational anti-competitive practices.⁶⁵ Harmonisation is a matter of legal texts, and it establishes effective mechanisms for cooperation, information sharing, and mutual assistance between Vietnamese authorities and their EU counterparts. Currently, significant differences exist in the level of international cooperation, investigative capacity, and mutual recognition of decisions, highlighting the need for trust-building, alignment of procedures, and enhancement of technical and legal capacity for Vietnamese authorities to achieve effective cross-border enforcement. While the EU has developed extensive tools for cooperation with both Member States and third countries, Vietnam's mechanisms are still in the early stages of development.⁶⁶ Consequently, the establishment of practical international cooperation will require building trust, aligning procedures, and enhancing the technical and legal capacity of Vietnamese authorities.

3. Guiding principles for legislative and procedural harmonization of Vietnam's Competition Law with European Union regulations

The harmonisation of Vietnam's Competition Law with the EU regulations is not a matter of mere legal transplantation, but a process that requires thoughtful adaptation of concepts, procedures, and institutional frameworks to the domestic context. This approach mainly rests upon the principle of functional equivalence, which calls for Vietnamese lawmakers and policymakers to identify the core functions and objectives of EU competition law and then tailor local measures to achieve analogous outcomes within Vietnam's own legal, economic, and administrative environment, mitigating the risk of legal transplant failure and accounting for local institutional realities.⁶⁷ For instance, where the EU operates with flexible, jurisprudence-driven definitions of market dominance or anti-competitive agreements, Vietnam may initially adopt formal benchmarks or statutory criteria while gradually integrating more sophisticated, effects-

⁶⁵ HEYL, K., EKARDT, F., ROOS, P., STUBENRAUCH, J., GARSKE, B. Free trade, environment, agriculture, and plurilateral treaties: the ambivalent example of Mercosur, CETA, and the EU–Vietnam free trade agreement. In: *Sustainability*, Vol. 13, No. 6, 2021, p. 3153. DOI 10.3390/su13063153.; HOANG, H. H., SICURELLI, D. The EU's preferential trade agreements with Singapore and Vietnam: market vs. normative imperatives. In: *Contemporary Politics*, Vol. 23, No. 4, 2017, p. 369 – 387. DOI 10.1080/13569775.2017.1289303.; TRÖSTER, B., GRUMILLER, J., GROHS, H., RAZA, W., STARITZ, C., ARNIM, R. Combining trade and sustainability? The free trade agreement between the EU and Vietnam. In: *ÖFSE Policy Note*, No. 29/2019, 2019. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.econstor.eu/bitstream/10419/192973/1/1048633047.pdf>.

⁶⁶ CASTELEIRO, A. D. The European Union's preferential trade agreements: between convergence and differentiation. In: *Yearbook of European Law*, Vol. 42, 2023, p. 102 – 134. DOI 10.1093/yel/yead003.; LICETTI, M., MIRALLES, G., TEH, R. Competition policy. In: MATTOO, A., ROCHA, N., RUTA, M. (eds). *Handbook of Deep Trade Agreements*. 2020, p. 502 – 505. [online] [cit. 9. septembra 2026]. Dostupné online: <https://documents1.worldbank.org/curated/en/685311594363725995/pdf/Handbook-of-Deep-Trade-Agreements.pdf>.; MA, B., YU, D. Balancing regional integration and national diversity in IP harmonization: lessons from the EU and ASEAN. In: *Asian Journal of Technology Innovation*, 2025, p. 1 – 20. DOI 10.1080/19761597.2025.2495354.

⁶⁷ KADAR, M. European Union competition law in the digital era. In: *Zeitschrift Für Wettbewerbsrecht*, Vol. 13, No. 4, 2015, p. 342 – 363. DOI 10.15375/zwer-2015-0403.; TRAN, V. P., DUONG, A. S. The concerns of nation-state sovereignty and international commercial law: a path to harmonisation. In: *Khazanah Hukum*, Vol. 6, No. 1, 2024, p. 34 – 45. DOI 10.15575/kh.v6i1.33809.; VERGHESE, A. S. Trade and competition policy. In: Edward Elgar Publishing eBooks, 2023, p. 151 – 168. DOI 10.4337/9781800882867.00015.

based analyses as local administrative capacity and case law accumulate, reflecting EU practices.⁶⁸ Adapting legal standards through functional equivalence can help mitigate the risk of “legal transplant failure,” which occurs when borrowed rules or procedures do not align with the institutional realities or cultural expectations of the receiving country. This approach has precedent in the gradual adaptation of competition law in ASEAN member states, where convergence with international models has been shaped by local administrative practices and regulatory priorities.⁶⁹ The functional equivalence for Vietnam might be the maintenance of some formalistic elements, such as clear market share thresholds for dominance, while it introduces economic assessment tools, sectoral guidelines, and capacity-building measures to enable deeper, more context-sensitive analysis of anti-competitive effects.

Another foundational principle for harmonization is the strengthening of independent regulatory enforcement. The effectiveness of any competition law hinges on the legal provisions themselves and the authority and integrity of the institutions tasked with their implementation. The EU’s enforcement model, led by the European Commission and complemented by empowered national competition authorities, is noted for its institutional independence, professional expertise, and procedural rigor.⁷⁰ Vietnam’s National Competition Commission, although relatively new, has the potential to fulfill a similar role provided it is granted both legal and operational autonomy. Legislative reforms should ensure that appointments to the Commission are based on professional merit and that the agency is shielded from undue political or administrative influence.⁷¹ Adequate resources and ongoing training are vital to enable the Commission to keep pace with increasingly complex markets and sophisticated anti-competitive practices.⁷² Institutional independence is particularly important in economies where powerful state-owned enterprises or vested interests may exert significant influence. In Vietnam, the successful implementation of competition policy will depend on the Commission’s capacity to investigate, adjudicate, and sanction cases objectively, even where politically sensitive or high-profile market actors are involved. The EU’s experience shows that independent enforcement bodies, properly resourced and supported by the judiciary, can maintain market confidence and investor trust while driving continuous improvements in market practices.⁷³

⁶⁸ BERNATT, M., ZOBOLI, L. Competition law. Edward Elgar Publishing eBooks, 2023, p. 398 – 414. DOI 10.4337/9781802208030.00035.; EZRACHI, A. EU competition law goals and the digital economy. In: *SSRN Electronic Journal*, 2018. DOI 10.2139/ssrn.3191766.

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⁷⁰ GABATHULER, D., DEVROE, W. The European Union competition law framework. In: CAUFFMAN, C., HAO, Q. (eds). *China-EU Law Series*, Vol. 3, 2016, p. 7 – 37. DOI 10.1007/978-3-662-48735-8_2.; FRESE, M. J. *Sanctions in EU Competition Law: Principles and Practice*. London : Bloomsbury Publishing, 2014. DOI 10.5040/9781474201674.; TRÖSTER, B., GRUMILLER, J., GROHS, H., RAZA, W., STARITZ, C., ARNIM, R. Combining trade and sustainability? The free trade agreement between the EU and Vietnam. In: *ÖFSE Policy Note*, No. 29/2019, 2019. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.econstor.eu/bitstream/10419/192973/1/1048633047.pdf>.

⁷¹ KURNIAWAN, I. G. A., DISANTARA, F. P., THUONG, M. T. H., NUTAKOR, B. S. M. The business law in contemporary times: a comparison of Indonesia, Vietnam, and Ghana. In: *Substantive Justice International Journal of Law*, Vol. 7, No. 2, 2024, p. 114 – 141. DOI 10.56087/substantivejustice.v7i2.297.; LAURSEN, F., ROEDERER-RYNNING, C. Introduction: the new EU FTAs as contentious market regulation. In: Routledge eBooks, 2020, p. 1 – 17. DOI 10.4324/9780429060052-1.

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⁷³ MEUNIER, S. *Trading Voices: The European Union in International Commercial Negotiations*. Princeton : Princeton University Press – Torrossa, 2021. Dostupné online: <https://www.torrossa.com/en/resources/an/5564851?digital=true;>

Equally vital is the principle of procedural transparency and due process. The legitimacy of competition law depends in large part on the fairness and openness of its enforcement processes. In the EU, procedural safeguards – such as the right of defense, access to the case file, reasoned decisions, and avenues for judicial review – are deeply embedded in the legal framework and have been continuously reinforced through legislative updates and case law.⁷⁴ Vietnam has made commendable progress by introducing basic procedural rights in its Competition Law, but the next step should be to further clarify and expand these protections. This can be accomplished through detailed procedural guidelines, regular publication of enforcement decisions, and clear communication of investigation processes and standards of proof. Ensuring procedural transparency means that parties under investigation should have meaningful opportunities to respond to evidence, make submissions, and be heard before any sanctions are imposed. Moreover, all decisions should be well-reasoned, referencing both the facts and the legal grounds, and published in a way that informs future conduct and enhances predictability for businesses and practitioners. Robust mechanisms for judicial review – either before specialized administrative tribunals or within the general court system – are necessary to check regulatory overreach and to foster the gradual development of a Vietnamese body of competition law jurisprudence.⁷⁵

Another fundamental principle for harmonisation is an improvement of the cooperation mechanisms, so that effective cross-border competition cases are pursued. As Vietnam continues to deepen its economic integration through agreements like the EU–Vietnam Free Trade Agreement and becomes more embedded in global value chains, competition issues are increasingly likely to have a transnational dimension, highlighting the need for coordinated cross-border enforcement.⁷⁶ The EU's model – particularly its European Competition Network agreements with third countries provides important lessons for constructing the analytical and administrative procedures that would enable information sharing, coordinated investigations and mutual assistance in enforcement. For Vietnam, strengthening cooperation could involve negotiating formal memoranda of understanding with the European Commission and with national authorities in key trading partners, establishing secure channels for exchanging information and best practices, harmonising procedural rules for taking and examining evidence, and ensuring confidentiality and due process across jurisdictions.⁷⁷ Vietnam's active participation in regional competition law networks, such as those within ASEAN countries, can further

MORTON, F. S. The three pillars of effective European Union competition policy. Bruegel, 2024. [online] [cit. 9. septembra 2026]. Dostupné online: <http://www.jstor.org/stable/resrep63077>.

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⁷⁷ MEUNIER, S. *Trading Voices: The European Union in International Commercial Negotiations*. Princeton : Princeton University Press – Torrossa, 2021. Dostupné online: <https://www.torrossa.com/en/resources/an/5564851?digital=true;> VERGHESE, A. S. Trade and competition policy. In: Edward Elgar Publishing eBooks, 2023, p. 151 – 168. DOI 10.4337/9781800882867.00015.

promote convergence and mutual learning, helping to build both capacity and credibility at the international level.⁷⁸ In addition to the headline principles, a comprehensive harmonisation strategy may emphasise risk-based and proportionate enforcement, competition advocacy, and the development of a compliance culture. A risk-based approach encourages authorities to focus on conduct that poses the greatest threat to competition and consumer welfare, while allowing them to simplify procedures for less grave infringements.⁷⁹ Advocacy efforts, such as public education campaigns, business outreach, and the development of guidance documents, are essential to foster an environment where competition law is understood, respected, and actively integrated into business planning and government decision-making.⁸⁰

Gradual implementation and ongoing review of reforms are very important. Rather than attempting to adopt EU standards across all areas, Vietnam could prioritize reforms in high-impact areas or legislative regulations, experiment with new enforcement tools, and adjust policies based on regular impact assessments and stakeholder feedback.⁸¹ This iterative approach allows for the gradual accumulation of expertise and legitimacy, reduces the risks associated with abrupt regulatory changes, and builds a robust, locally-based competition regime over time. Therefore, the adaptation of Vietnam's Competition Law to EU regulations is best conceptualized as a dynamic process rather than a one-time legal event. The principles outline, such as functional equivalence, independent enforcement, procedural and judicial transparency, and cross-border cooperation, should guide the legislative reform and the daily practice of Vietnamese competition authorities, courts, businesses, and legal professionals.⁸² Accordingly, by adjusting and incorporating such principles into the policy formulation process, Vietnam can develop a competition law regime that is simultaneously responsive to local realities and aligned with international standards, supporting domestic economic development and integration into the global economy.

⁷⁸ LUU, H. L. Regional harmonization of competition law and policy: an ASEAN approach. In: *Asian Journal of International Law*, Vol. 2, No. 2, 2012, p. 291 – 321. DOI 10.1017/s2044251312000124.; MA, B., YU, D. Balancing regional integration and national diversity in IP harmonization: lessons from the EU and ASEAN. In: *Asian Journal of Technology Innovation*, 2025, p. 1 – 20. DOI 10.1080/19761597.2025.2495354.; THANADSILLAPAKUL, L. The harmonization of ASEAN: competition laws and policy from an economic integration perspective. Edward Elgar Publishing eBooks, 2012. DOI 10.4337/9781781004319.00008.

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⁸² MALINAUSKAITE, J., ERDEM, F. B. Competition law and sustainability in the EU: modelling the perspectives of national competition authorities. In: *JCMS Journal of Common Market Studies*, Vol. 61, No. 5, 2023, p. 1211 – 1234. DOI 10.1111/jcms.13458.; PHAN, M. G. Impact of international trade agreements on commercial law in Vietnam. In: *Russian Law Journal*, Vol. 11, No. 3, 2023, p. 2797 – 2807. [online] [cit. 9. septembra 2026]. Dostupné online: <https://www.russianlawjournal.org/index.php/journal/article/view/2255/1238>.

IV. CONCLUSION

The efforts of Vietnam to align its Competition Law with the EU framework should focus on context-sensitive adaptation rather than mere legal transplantation. The challenge for Vietnam is developing a competition regime that balances domestic imperatives with the demands of globalised markets, as its economy becomes more deeply integrated in the global market. The comparative analysis between Vietnam's legal framework and the EU's system highlights similarities and key differences that will contribute to the reform of the competition policy issues in Vietnam later. The fact is that, apart from the core three areas of concern, i.e., anti-competitive agreements, abuse of dominance and economic concentration, which are somewhat similar to those in the EU, there is a significant disparity in legal approaches and enforcement mechanisms applied between Vietnam and the EU. The European competition law framework, however, has been well-established, and this law has distinctive features with a flexible, effects-based approach. The competition law framework of the EU is well developed with a flexible and effects-based method. It is underpinned by decades of legal precedent and a powerful European Commission. Remarkably, it is supported by independent national authorities to ensure effective enforcement. The strength of the EU's competition regime derives from its independent institutions, clear decision-making processes, and well-developed systems of judicial review, all of which together give businesses predictable rules and encourage voluntary compliance. In contrast, Vietnam's competition law system is still quite new, which is monitored by the National Competition Commission. Concerning the competition law, Vietnam tends to apply more formalistic measures in dealing with its competition laws by using predetermined criteria and statutory thresholds. While this provides certainty and predictability, it does not have the necessary adaptability to handle complicated, evolving market realities. The Vietnamese system is still developing the level of institutional independence and transparency, which characterises the EU system, but there still requires a great effort to ensure procedural fairness and enhance enforcement practices. Despite these differences, Vietnam and the EU share common policy goals. In general, Vietnam's readiness to adjust and revamp its legal and institutional framework generally reflects its commitment to adopting the best international standards and further integration with the world economy.

This systematic, comparative study reveals that Vietnam faces several challenges in harmonising its Competition Law with the EU's system. Those obstacles are not limited to technical and legal issues, but also encompass institutions and culture, with differences in administrative capacity, a high level of economic development, and the significant presence of state-owned enterprises. As a result, solving these problems will require a nuanced set of measures that reflect the unique political and economic environment in Vietnam. More distinctly, functional equivalence is one of the most fundamental principles for legal modernisation in Vietnam. Rather than simply adopting EU regulations, Vietnam should pursue equivalent regulatory outcomes by recalibrating legal definitions, performance standards, and enforcement mechanisms to domestic realities. This would allow a method for step-by-step adjustment of the approach and space for change and creativity within the Vietnamese context. Besides, it is greatly important to promote the independence of the National Competition Commission. To achieve this, the Commission must be granted unequivocal mandates, adequate financial and human capital, and protection from political influence. The ongoing enhancement of institutional capacity through specialised training initiatives and sector-specific expertise will empower the Commission to confront competition issues with renewed authority, especially when engaging powerful market participants, including state-owned enterprises. Transparency and procedural fairness are, in essence, fundamental to the effectiveness of competition law enforcement.

Extending procedural protections, recognition of the right to a fair trial, and ensuring access to relevant case materials are critical initial steps in regaining public confidence in the system. Moreover, the regular issuance of decisions and interpretative legal instruments within the framework will create a strong binding of the law and develop an enduring culture of compliance among enterprises. At the same time, it is very important to promote cooperation with foreign competition authorities further because it tries to integrate itself into the world economy on a broader scale to effectively coordinate the investigations and address the cross-border anti-competitive practices. Therefore, Vietnam can strengthen its competition law framework to create equal access to markets and become a reliable trading partner in the world market by adopting flexible principles that reconcile the needs of most countries with existing international standards.

KEY WORDS

competition law, economic integration, functional equivalence, legal reform, regulatory enforcement

KLÚČOVÉ SLOVÁ

právo hospodárskej súťaže, hospodárska integrácia, funkčná ekvivalencia, právna reforma, presadzovanie práva

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